

REMARKS

By this amendment, claims 1-3 and 5-7 have been amended, and new claim 9 has been added. With respect to the claim objection of claim 1, Applicant believes "natural" would be perfectly clear to anyone of skill in the art as meaning an intervertebral disc. Thus, at least for now, Applicant believes correction or clarification is not required. With regard to the rejections under 35 U.S.C. §112, second paragraph, the preamble of claim 1 has been changed to make it clear what the claimed body is an improvement of. With respect to "components" in claims 2-7, Applicant does not understand why the Examiner has a problem with this. In each case, "components" refers to the bio-sorbable components originally set forth in claim 1. "Bio-resorbable" has been added to some of the dependent claims to make this further evident.

Claims 1-8 stand rejected under 35 U.S.C. §102(b) as being anticipated by Nicholson et al. ('080). Applicant disagrees that anticipation has been established. Claim 1, and all of this application, include the limitation of a prosthetic or natural *arthroplasty device*. By any definition, arthroplasty means having to do with a joint; that is, having to do with something that moves or articulates. Nicholson, on the other hand, is strictly limited to spinal fusion devices. More particularly, the '080 patent teaches a fusion cage configured to bond adjacent vertebral bodies, and terminate motion all together. This is not clear from Applicant's instant claim 1, note claim 3 where the components facilitate a limited degree of motion or ability after healing. Given that anticipation requires anticipation may be established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Systems, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation requires the presence of all elements of a claimed invention as arranged in the claim, such that a disclosure "that 'almost' meets that standard does not 'anticipate'." Connell v. Sears, Roebuck Co., 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

A replacement drawing sheet of Figure 1 is attached hereto.

Based upon the foregoing amendments and comments, Applicant believes the pending claims are in condition for allowance. To expedite prosecution, the undersigned attorney by telephone, facsimile or electronic mail.

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Respectfully submitted,

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Dated: December 21, 2004